

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Number Resource Optimization)

CC Docket No. 99-200 /

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

JOINT PETITION FOR RECONSIDERATION

Autopage, Inc. ("Autopage") and Radio Paging Service ("RPS") ("Petitioners"), by their attorneys, hereby jointly request reconsideration of the reporting and record-keeping provisions of the Commission's Report And Order And Further Notice Of Proposed Rule Making (Numbering Resources Optimization), FCC 00-104, released March 31, 2000 ("NRO Order"), as they pertain to small paging carriers. Specifically, the Petitioners seek a blanket exemption for themselves and other small paging companies¹ from the new telephone number utilization reporting and record-keeping requirements established in the NRO Order.

I. Introduction

Autopage and RPS are both small paging companies serving non-urban service areas, and whose use of numbering resources has neither increased nor fluctuated significantly during the last ten years. Neither Autopage nor RPS has requested any central office codes ("NXX codes") during this period. Both of the Petitioners are located outside urban areas. Moreover, both of the Petitioners serve very small numbers of customers:

¹ For purposes of this filing, the Petitioners define a "small paging carrier" as being coextensive with a "small business entity" as defined in Section 22.223(b) of the Commission's Rules, and an entity that: (1) together with its affiliates and controlling interests, has average gross revenues that are not more than \$3 million for the preceding three years; or (2) together with its affiliates and controlling interests has average gross

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Autopage currently serves approximately 275 subscribers, and RPS currently serves approximately 8,900 subscribers. It is therefore evident that the Petitioners – like most small paging carriers – have a small customer base, modest growth rate, limited demand for number resources, and scarce administrative resources.

Notwithstanding these facts, the Petitioners are currently subject to the full reporting and record-keeping requirements established in the NRO Order, and will be required to complete and file the proposed new North American Numbering Plan Numbering Resource Utilization/Forecast Report (FCC Form 502) on a semi-annual basis. Both in terms of proportionality and practicality, these requirements do not make sense, and threaten to become a staggering administrative burden. The Petitioners therefore ask that the Commission recognize the very significant problem that compliance with the NRO Order will cause small paging carriers, and request that the Commission exempt them from the new record-keeping and reporting requirements. In substitution, the Petitioners propose that the Commission require them to file the number utilization data required by Section 52.15(g) of the Rules on the occasions they request additional NXX codes.

II. The Commission Should Exempt Small Paging Carriers From the New Record-Keeping and Reporting Requirements

As the Commission is aware, during the last decade virtually all demand for new NXX codes has been by wireless carriers and competitive local exchange carriers (“CLECs”). The vast majority of these NXX codes have been added to accommodate new wireless and CLEC operations in urban and suburban areas. Recently, factors such as the Commission’s spectrum auctions and the local exchange competition promoted by the

revenues that are not more than \$15 million for the preceding three years. See 47 C.F.R. Section 22.223(b).

1996 Act have helped introduce hundreds of new cellular, broadband and narrowband PCS, LMDS, digital SMR carriers and CLECs into the market, all of which have required new substantial numbering resources.

Put simply, small paging carriers like Autopage and RPS have not been responsible for the “rapid depletion of numbering resources nationwide” that the NRO Order was intended to address. Rather, small one-way paging carriers such as Autopage and RPS provide services for which the demand has neither increased nor fluctuated significantly during the past decade. Since paging carriers have experienced very modest growth rates during this period, and have faced stiff competition for customers from other wireless services, they rarely have needed to obtain new NXX codes. Hence, small paging carriers such as Autopage and RPS are not now, and have never been in the past, significant contributors to any nationwide telephone number exhaustion problem.

Notwithstanding the fact that they have never been part of the problem, small paging carriers have nevertheless have been saddled by the NRO Order with onerous new reporting and record-keeping requirements that do not differentiate between them and larger service providers. The Petitioners oppose these requirements for the following reasons: (a) they are wholly unnecessary to conserve numbering resources (particularly in light of the very small number of present and future NXX codes used by small paging companies and effectiveness of the new need verification and pooling measures adopted in the NRO Order); (b) they will be largely ineffective in predicting numbering resource needs (particularly because they do not encompass the new telecommunications industry entrants that are significant users of initial NXX codes and because the predictions of reporting carriers will vary greatly in technique and accuracy); and (c) they impose

expensive, time consuming and unduly burdensome new reporting and record-keeping requirements upon small paging companies.

Partial Waivers Are Insufficient. It would not be enough simply for small paging providers to obtain partial waivers of the NRO Order's new reporting requirements. While partial waivers might reduce the frequency and detail of small paging carriers' record-keeping and reporting responsibilities, they would not alter the fundamental administrative burden. As the NRO Order currently stands, compliance with these underlying requirements are what threaten to cause very serious problems for small paging carriers.

It would also be costly and time-consuming for small paging carriers to obtain waivers from the Commission or the states. In most cases, small paging carriers would have to depend on outside legal counsel to draft such waivers, as well as submit them to the Commission and to state regulators. If the Commission delegated such waivers to the states, many state regulators will be obligated to open a formal proceeding to investigate such waiver requests – a process which may entail hearings, appearance by counsel or company officers, evidence gathering, and formal rulings. Regardless of whether waivers are obtained from the Commission or the states, however, the expenses involved in such processes would be considerable, and will likely outweigh any of the modest administrative savings.

The far more reasonable and efficient solution is for the Commission to grant small paging carriers a blanket exemption from the Section 51.15(f) record-keeping and reporting requirements established in the NRO Order. Given the size of small paging carriers and the fact that they are not significant users of new NXX codes, this exemption would not materially decrease the accuracy or value of the information sought by the Commission and

NANPA from the new FCC Form 502 reports. Rather, it will reduce the burdens and expenses imposed upon these small carriers, without perceptibly affecting or impairing the Commission's number conservation goals or programs.

Unnecessary. Small paging carriers currently use only a small fraction of the total number resources available in the NANP. Moreover, in light of their modest growth rate and limited base of potential customers, small paging carriers will require an even smaller percentage of new and growth NXX codes during the foreseeable future. The semi-annual number utilization and forecasting reports that small paging carriers must submit to the North American Numbering Plan Administrator ("NANPA") will therefore encompass a very small and immaterial portion of aggregate United States numbers and NXX codes, and an even smaller and less material portion of growth NXX codes. These reports will not significantly affect or enhance the efforts of NANPA or the Commission to monitor nationwide or regional number utilization and to predict or prevent the exhaustion of numbering resources. In other words, such reports by small paging companies will clearly not be a necessary or material element of the national and regional reports that the NANPA and the Commission will compile for monitoring and forecasting purposes.

More important, the new need verification and pooling measures adopted in the NRO Order will effectively conserve initial and growth NXX codes of their own operation, without requiring small paging carriers to comply with onerous reporting and record-keeping requirements. This is especially true in circumstances where small paging carriers are recycling their current inventory of assigned numbers, and are not requesting the assignment of additional NXX codes from the NANPA.

Instead of requiring all small paging carriers to submit extensive reports on a semi-annual basis, it appears far more reasonable, effective and efficient to require small paging carriers to submit the number utilization information required by Section 52.15(g) of the Commission's Rules only on the occasions when they request additional NXX codes. This approach would give the Commission, the states and NANPA all the information they would need to determine whether a particular small paging carrier's number utilization warrants the assignment to it of an additional NXX code, without requiring all small paging carriers to bear the costs and burdens of submitting unnecessary utilization reports twice a year.

Ineffective. As discussed above, it appears that new market entrants – particularly, wireless carriers and CLECs – have placed very substantial demands upon numbering resources in recent years. The Commission's spectrum auctions and the 1996 Act's opening of local exchange competition have encouraged the creation of hundreds of new wireless carriers and CLECs. These carriers have consumed substantial number resources whenever they have entered new markets or have expanded into additional geographic market areas.

However, the NRO Order's reporting requirements apply only to existing NXX code holders and existing block holders. In other words, they will not encompass new carriers or existing carriers that are planning to enter new geographic market areas – which are two of the primary sources of demand for new NXX codes. These new and expanding carriers have been far more significant and far more substantial contributors to numbering resource depletion than small paging carriers. More important, the lack of

such demand forecasts from these new and expanding carriers will greatly reduce the accuracy and value of the forecasts prepared on the basis of the new FCC Form 502.

The point of the Petitioners is not that the Commission's Section 51.15(f) and FCC Form 502 reporting requirements should be extended to encompass new market entrants, or that new market entrants should be required to comply before they are assigned any numbering resources. Rather, the Petitioners stress that the new reporting requirements will not produce accurate predictions of number depletion, since the reports will neither encompass the service plans of new carriers nor the expansion plans of existing carriers – two of the most significant users of new NXX codes.

In addition, it is likely that the forecasts furnished by existing carriers will be based upon widely varying assumptions and techniques. Some carriers may be very conservative in their NXX code predictions, while others may aggressively forecast significant future NXX code needs. Some carriers will take pains to make careful predictions on the basis of reasoned assumptions, while others may put down whatever numbers come to mind at the time they are completing the form. Aggregating such varied forecasts into national and regional reports will constitute little more than mixing apples, oranges and pears, and will likely have little actual predictive value.

Unduly burdensome. The first page of FCC Form 502 indicates that the estimated average burden for each semi-annual response is 24 hours. If this estimate is accurate, compiling the FCC Form 502 will be a serious burden for small paging carriers. These carriers generally have small management and administrative staffs with broad and varied responsibilities, which simply do not have an extra 24 or 48 man-hours to complete and submit FCC Form 502 twice a year.

The new FCC Form 502 is lengthy and complex, and appears designed with the Regional Bell Operating Companies and other large carriers in mind. In contrast to the many pages, options and schedules of the new FCC Form 502, all relevant numbering information concerning small paging carriers such as the Petitioners could be obtained from a simple one-page report that asks the following four questions:

1. In what area code(s) (“NPA codes”) are your paging facilities located?
2. For each area code, list the number resources assigned to your company.
3. For each NXX code, state the number of assigned telephone numbers in use as of (specific date).
4. How many additional NXX codes does your company expect to request during the next two years, and at what locations will they be requested?

The foregoing information could be compiled and submitted by a small paging carrier in less than an hour, would give NANPA and the Commission all of the relevant information concerning their number utilization, and could be done at a fraction of the time and cost of completing FCC Form 502. In the alternative, the former Central Office Code Utilization Survey (“COCUS”) report provided sufficient number utilization and forecasting information via a more straightforward four-page form that took only an estimated 9 hours to complete.

The Petitioners also stress that the record-keeping requirements associated with such FCC Form 502 reports will also very burdensome for small paging carriers. Many small paging carriers do not even have their own NXX codes, and order their numbers in blocks of 100 or 1,000 from another carrier. Tracking the six primary and eight secondary number categories in the level of detail required by the NRO Order would therefore be a new – and foreign – activity for many small paging carriers, and would require time-

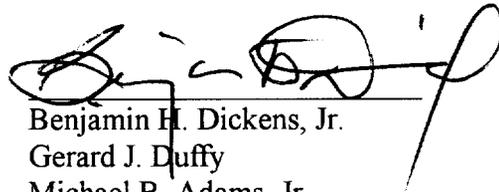
consuming research through customer and other records. The “aging” category, in particular, poses difficult problems for small carriers that have been required by local customs to adopt a wide range of aging practices. For example, in some areas carriers have encountered angry and hostile complaints when they have assigned numbers that were used by other customers within the previous twelve months. This problem, which can be far more aggravating in a rural community than an urban area, has traditionally been addressed by the adoption of varied aging policies. Some of these are time-based (and range for 3 months to over 12 months), while others are based upon the completion and publication dates of the local telephone directory for the area.

In sum, requiring small paging carriers to track their numbering usage in the manner required by the NRO Order and to file the new FCC Form 502 would impose expensive and time consuming burdens upon them, and would do so without generating useful information or aiding the conservation of numbering resources. The Commission should therefore permit small paging carriers to compile their numbering data in less detail and allow them to submit some form of shortened, substitute report.

III. Conclusion

The Petitioners request reconsideration of the unnecessary, ineffective and unduly burdensome reporting and record-keeping provisions imposed by the NRO Order on small paging carriers. The Petitioners therefore request that the Commission adopt a blanket exemption for all small paging carriers from the filing of the new FCC Form 502, as well as the associated reporting and record-keeping requirements.

Respectfully submitted,



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